

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THOMAS LEE EVANS,

Plaintiff,

v.

BRIAN HEIMANN, et al.,

Defendants.

CASE NO. C18-5473 MJP

ORDER DISMISSING CASE

This matter comes before the Court on the Parties' Responses to the Court's Order for Additional Briefing. (See Dkt. Nos. 55, 56, 58, 59.) Having reviewed the briefing and all supporting materials, the Court DISMISSES this action with prejudice consistent with the Court's earlier Order staying this case. (See Order (Dkt. No. 47).)

The Court briefly reviews the facts, which are more completely set forth in the Court's Order staying this case. Plaintiff brought an action in Pierce County Superior Court in which he asserted solely state law claims against Defendants. Defendants removed the case to federal court, and Plaintiff successfully obtained a remand to Pierce County. Plaintiff then filed a new

lawsuit in federal court against the same defendants concerning the same facts in his first lawsuit. But in his federal action, Plaintiff pursued only federal causes of action. In ruling on Defendants' Motion to Dismiss, the Court found Plaintiff's attempt to separately litigate his federal claims improper and subject not only to res judicata but also the Colorado River doctrine. The Court noted that "[i]t is clear that if the state court action was final (in either parties' favor), that judgment would have preclusive effect here (and vice versa)." (Order at 4.) And the Court explained that "[o]nce one of the cases becomes final, the second one is duplicative and subject to dismissal." (Order at 5.) Rather than dismiss the case, the Court stayed this federal action pending the results of the state action. Plaintiff's action in Pierce County Superior Court has now been dismissed with prejudice through an order granting summary judgment in Defendants' favor.

Given the final disposition of Plaintiff's state action, the doctrine of res judicata applies to this case and requires its dismissal. There are three elements of res judicata: (1) identity of claims; (2) final judgment on the merits; and (3) identity or privity between parties. Frank v. United Airlines, Inc., 216 F.3d 845, 850, n.4 (9th Cir. 2000); Thompson v. King Co., 163 Wn. App. 184 (2011). Plaintiff does not seriously contest that the summary judgment entered in Defendants' favor is not a final adjudication on the merits. Nor could he reasonably pursue such an argument since "[a] grant of summary judgment at a prior proceeding is considered a final judgment on the merits." Emeson v. Dep't of Corr., 194 Wn. App. 617, 626 (2016). Instead, Plaintiff suggests that because his state law false arrest claim was dismissed as untimely, there was never a final adjudication on the merits of that claim and res judicata should not apply to his related federal claim. (See Dkt. No. 59 at 5.) This argument is flawed. "The Supreme Court has unambiguously stated that a dismissal on statute of limitations grounds is a judgment on the

merits.” Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Plan. Agency, 322 F.3d 1064, 1081 (9th Cir. 2003) (citing Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 228 (1995)). The same is true under Washington law. See Campbell v. Fernandez, 14 Wn. App. 2d 769, 777 n.4 (2020) (adopting the Ninth Circuit’s conclusion that “for res judicata purposes a dismissal on statute of limitations grounds can be treated as a dismissal on the merits” (citing In re Marino, 181 F.3d 1142, 1144 (9th Cir. 1999)). As such, there has been a final judgment on the merits of all of Plaintiff’s state law claims and the federal claims he pursues before this Court are barred by res judicata. The Court therefore DISMISSES this action with prejudice consistent with the Order staying this case.

The clerk is ordered to provide copies of this order to all counsel.

Dated January 11, 2022.



Marsha J. Pechman
United States Senior District Judge